

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 819

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; LIMITING GIFTS TO CANDIDATES
FOR STATE OFFICE AND STATE OFFICERS AND EMPLOYEES AND THEIR
FAMILIES; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Gift Act".

Section 2. DEFINITIONS.--As used in the Gift Act:

A. "family" means a spouse and dependent children;

B. "gift" means any donation or transfer without
commensurate consideration of money, property, service, loan,
promise or any other thing of value, including food, lodging,
transportation and tickets for entertainment or sporting
events, but does not include:

(1) any activity, including but not limited to

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underscoring material = new
[bracketed material] = delete

1 the acceptance of a donation, transfer or contribution, or the
2 making of an expenditure or reimbursement, that is authorized
3 by the Campaign Reporting Act or the Federal Election Campaign
4 Act of 1971, as amended;

5 (2) a gift given under circumstances that make
6 it clear that the gift is motivated by a family relationship or
7 close personal relationship rather than the recipient's
8 position as a state officer or employee or candidate for state
9 office;

10 (3) compensation for services rendered or
11 capital invested that is:

12 (a) normal and reasonable in amount;

13 (b) commensurate with the value of the
14 service rendered or the magnitude of the risk taken on the
15 investment;

16 (c) in no way increased or enhanced by
17 reason of the recipient's position as a state officer or
18 employee or candidate for state office; and

19 (d) not otherwise prohibited by law;

20 (4) payment for a sale or lease of tangible or
21 intangible property that is commensurate with the value of the
22 services rendered and is in no way increased or enhanced by
23 reason of the recipient's position as a state officer or
24 employee or candidate for state office;

25 (5) a commercially reasonable loan made in the

1 ordinary course of the lender's business on terms that are
2 available to all similarly qualified borrowers;

3 (6) reimbursement for out-of-pocket expenses
4 actually incurred in the course of performing a service for the
5 person making the reimbursement;

6 (7) any gift accepted on behalf of and to be
7 used by the state or a political subdivision of the state,
8 including travel, subsistence and related expenses accepted by
9 a state agency in connection with a state officer's or
10 employee's official duties that take place away from the state
11 official's or employee's station of duty;

12 (8) anything for which fair market value is
13 paid or reimbursed by the state officer or employee or
14 candidate for state office;

15 (9) reasonable expenses for a bona fide
16 educational program that is directly related to the state
17 officer's or employee's official duties; or

18 (10) a retirement gift;

19 C. "market value" means the retail cost a person
20 would incur to purchase a gift;

21 D. "restricted donor" means a person who:

22 (1) is or is seeking to be a party to any one
23 or any combination of sales, purchases, leases or contracts to,
24 from or with the agency in which the donee holds office or is
25 employed;

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1 (2) will personally be, or is the agent of a
2 person who will be, directly and substantially affected
3 financially by the performance or nonperformance of the donee's
4 official duty in a way that is greater than the effect on the
5 public generally or on a substantial class of persons to which
6 the person belongs as a member of a profession, occupation,
7 industry or region;

8 (3) is personally, or is the agent of a person
9 who is, the subject of or party to a matter that is pending
10 before a regulatory agency and over which the donee has
11 discretionary authority as part of the donee's official duties
12 or employment within the regulatory agency; or

13 (4) is a lobbyist or a client of a lobbyist
14 with respect to matters within the donee's jurisdiction; and

15 E. "state officer or employee" means any person who
16 has been elected to, appointed to or hired for any state office
17 and who receives compensation in the form of salary or is
18 eligible for per diem or mileage.

19 Section 3. LIMITATION ON GIFTS.--

20 A. A state officer or employee or a candidate for
21 state office, or that person's family, shall not knowingly
22 accept from a restricted donor, and a restricted donor shall
23 not knowingly donate to a state officer or employee or a
24 candidate for state office, or that person's family, a gift of
25 a market value greater than two hundred fifty dollars (\$250).

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